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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---------------------------------|-------------|----------------------|---------------------|------------------|
| 10/697,675 | 10/29/2003 | Alison D. Wilson | 20005/10001 | 8404 |
| 34431 | 7590 | 05/01/2007 | EXAMINER | |
| HANLEY, FLIGHT & ZIMMERMAN, LLC | | | WALSH, DANIEL I | |
| 150 S. WACKER DRIVE | | | ART UNIT | PAPER NUMBER |
| SUITE 2100 | | | 2876 | |
| CHICAGO, IL 60606 | | | | |

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| MAIL DATE | DELIVERY MODE |
| 05/01/2007 | PAPER |

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

| | | |
|------------------------------|-----------------|-------------------|
| Office Action Summary | Application No. | Applicant(s) |
| | 10/697,675 | WILSON, ALISON D. |
| Examiner | Art Unit | |
| Daniel I. Walsh | 2876 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on ____.
- 2a) This action is **FINAL**. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-19 is/are pending in the application.
 - 4a) Of the above claim(s) 8-19 is/are withdrawn from consideration.
- 5) Claim(s) ____ is/are allowed.
- 6) Claim(s) 1-7 is/are rejected.
- 7) Claim(s) ____ is/are objected to.
- 8) Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 10-29-03 is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. ____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date ____.
- 4) Interview Summary (PTO-413)
Paper No(s)/Mail Date ____.
- 5) Notice of Informal Patent Application
- 6) Other: ____.

DETAILED ACTION

1. Receipt is acknowledged of the election of claims 1-7, on 2-5-07, without traverse.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 2, and 5-7 are rejected under 35 U.S.C. 102(b) as being anticipated by Namisniak et al., hereinafter Namisniak (US 5,711,160).

Re claim 1, Namisniak teaches a housing, an informational area associated with the housing where the informational area includes a number of fields in which information related to food items in the food storage device maybe recorded and a food storage guideline information item associated with the housing and representing time durations for which particular food items maybe stored without spoiling (FIG. 2).

Re claim 2, an item field is shown (FIG. 2).

Re claims 5-6, the Examiner notes that FIG. 2 is interpreted to have different informational areas associated with a first and second storage device, including a refrigerator and freezer, since items are stored in refrigerators and freezers. Further, FIG. 7 shows up to 4 separate storage devices (including a refrigerator and freezer) with specific informational areas

for each device. Though the display is shared in FIG. 7, the Examiner notes that it is interpreted as first and second informational areas, since the items are separately listed.

Re claim 7, FIG. 3 shows mounting means for the housing to the storage device. The Examiner has interpreted that the food storage guideline informational item is stored within the housing itself (circuitry is stored within the housing), and hence is interpreted as being stored in a compartment/area of the housing.

3. Claims 3 and 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Namisniak, as discussed above, in view of Ogasawara (US 2002/0016739).

Re claim 4, Namisniak teaches the informational area comprises a dry erase board, as evidenced by dry erase pen 23. Re claim 3 Namisniak is silent to a current calendar date.

Ogasawara teaches a current calendar date (FIG. 7).

At the time the invention was made, it would have been obvious to one of ordinary skill in the art to combine the teachings of Namisniak with those of Ogasawara.

One would have been motivated to do this to provide relevant information to food storage, such as current dates, and also to provide general information to a user regarding time/date.

Additional Remarks

4. The Examiner notes that printed matter, such as guideline information item or pamphlet, that describes food spoilage, that does not have a functional relationship between the indicia and the structure of the apparatus itself, is not patentably distinct (see *In re Gulack and Ngai*). Accordingly, prior art that discloses different printed matter, is interpreted to read on the claims,

since printed matter is not patentable when there is not a functional relationship established. The Examiner wishes to convey such information now, to reduce any confusion that may occur later. For purposes of Examination, the claims are not limited to the informational item being printed, but the Examiner is bringing this point up, as it appears the specification shows the item as a printed item.

Conclusion

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure (See attached PTO-892).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Daniel I. Walsh whose telephone number is (571) 272-2409. The examiner can normally be reached on M-F 7:30-4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael G. Lee can be reached on (571) 272-2398. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Application/Control Number: 10/697,675
Art Unit: 2876

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D. Walsh

Daniel I Walsh
Examiner
Art Unit 2876



DANIEL WALSH
PRIMARY EXAMINER